

**U. S. House of Representatives
Committee on Agriculture
Subcommittee on Department Operations, Oversight, Nutrition and Forestry
Public Hearing
July 18, 2001**

♦ **Introduction**

I am Marshall W. Trammell, Jr., and I am testifying on behalf of the National School Boards Association (NSBA) in my capacity as chairman of the Chesterfield County School Board. The National School Boards Association represents the nation's 95,000 elected and appointed school board members, who in turn are responsible for governing America's public school systems.

Professionally, as the program coordinator for the Certification, Licensing, Registration, and Training section for the Virginia Department of Agriculture and Consumer Services Office of Pesticide Services, I am responsible for the training, testing, certification, and regulation of more than 20,000 pesticide applicators in Virginia. Virginia's regulatory approach is to recognize that the 10,000 plus pesticides registered in Virginia each year have the potential for both good and bad. As such, in cooperation with US EPA, we use existing federal label requirements in concert with education outreach to implement a *voluntary* integrated pest management (IPM) program in Virginia schools. Our approach allows each school division to implement a plan that meets their needs while not burdening them with unnecessary reporting procedures. Since the "label is the law," violations are dealt with in a straightforward manner. More importantly, our approach recognizes that all pesticides, both general use and those considered more dangerous or "restricted use," have the potential for harm if used improperly. Therefore, we focus our resources on education, training, and demonstration to mitigate pesticide exposure to staff, children and parents rather than on a paper-intensive regulatory program. Virginia's law already requires

that anyone applying *any* type of pesticide in a school setting be trained, tested and certified first. Requiring a legally prescriptive IPM approach does not buy us additional compliance or protection.

Chesterfield County is a relatively large suburban school system located in the Richmond, Virginia, metropolitan area. In Chesterfield, we serve more than 51,000 students and operate 59 schools. Our budget for the upcoming school year is more than \$377 million and we employ 6,852 staff. We enjoy a reputation of academic excellence. By national and state measures, we are credited with offering our families and businesses quality public education. As one example, I will note that both the Chesterfield County local government and the schools have been awarded the Senate Productivity and Quality Award.

♦ **The Pesticide Management Provision Is an Administrative Burden for Local School Districts**

My point with this brief description of Chesterfield is that when I tell you the pesticide management provisions of the amendment are a burden for Chesterfield, you can be confident that these provisions present a burden for other local education agencies. By “burden” I do not mean we are not concerned about the safety of our children and staff. Their safety is not the burden; the unnecessary paperwork and oversight required by these provisions is however a real burden for local education agencies in terms of time and costs.

♦ **Small School Districts Would Have Many Problems with Trying To Comply with the Provision**

Chesterfield County is just one of the nearly 15,000 school districts across the country that would have to comply with the provisions of the amendment. Many of these school districts are small and the prescriptive administrative requirements

of the amendment would create an unworkable system. To illustrate this point, there are school districts in Maine that are so small that the superintendent may oversee several districts. Because of limited existing administrative staff, these small districts would face additional difficulties with the cost of implementing this proposal because they do not have an existing administrative structure able to take on new duties in the central office. Certainly these districts would be overwhelmed by the requirement that each local education agency have a contact person who is knowledgeable about school pest management plans to carry out the implementation of a school pest management plan in schools. This contact person's duties include maintaining information about scheduling of pesticide applications in each school, disseminating information, maintaining material safety data sheets and labels, and maintaining all pesticide use data for at least three years after the pesticide is applied.

♦ **Chesterfield County Would Need To Hire Additional Staff To Comply with the Provision**

But the administrative burdens would not just be felt by the smallest school districts. If this provision was enacted into law, Chesterfield County would need to hire additional staff centrally, both clerical and technical, to ensure 59 individual school plans were in place and up to date. Additional clerical support would be needed in each of our schools to ensure that all the registry information was maintained and that notifications were given at a minimum of three times per year to all 51,000 students and 6,800+ employees as required by the legislation. The mobility of families in this high growth community presents even greater complications for registry and notification.

♦ **School Districts Could Be Exposed to Increased Liabilities**

Any inadvertent violations of the cumbersome guidelines such as notification deadlines, could expose schools to increased liabilities. In fact, the logistics of maintaining the required information and the potential for liability would require Chesterfield Public Schools to develop automated tracking and record-keeping systems in order to comply with the requirements of this bill. As a result, local school districts could expend time and funds defending these claims. School district budgets are already stretched too far and unnecessary litigation results in less money being spent on educating our nation's students.

Chesterfield Public Schools employs one full-time pesticide worker, and an environmental engineer provides oversight for the program. Current personnel costs amount to approximately \$150,000 per year. Our staff is frequently called upon to consult with smaller school systems that lack this professional expertise, and we are glad to provide this service to them at no cost. However, if the paperwork requirements of these provisions are enacted into law, we could no longer assist other school systems. And it would appear that we would open the door to increased liability for our own school district if we did.

♦ **It Is Doubtful That School Districts Would Receive Sufficient Funds To Implement the Provision**

The financial implications of this amendment also deserve scrutiny. The provision calls for "such sums as necessary" but it is unlikely that school districts will receive an amount approaching adequate funding for this provision. Therefore it would create a grossly under-funded mandate. NSBA opposes unfunded mandates imposed by federal laws and regulations and believes that all school-based education programs should be fully funded.

The Chesterfield County School Board's environmental engineer and budget office compiled a rough estimate regarding the annual costs to implement a federally mandated program such as the pesticide amendment that was included in the Senate-passed version of ESEA. We believe that a conservative estimate for this provision would be approximately \$350,000 to \$450,000 per year for Chesterfield County alone. The resources that must be allocated to comply with paper notification and documentation requirements are significant. Given the scarce resources and growing demands placed on our public schools, the provisions of this bill are detrimental to our primary mission of educating all our students to high academic standards. The funds necessary to comply with this bill will come from teacher raises, smaller classes, and other student services.

♦ **The Legislation May Raise Concerns over the Use of Pesticides Where Not Warranted**

Another concern with the legislation is that it has the potential for raising concerns over the use of pesticides where not warranted. For instance, the legislation establishes reentry times for pesticide use when the label on the pesticide does not require one. Specifically, if there is no period specified on the label of the pesticide during which a treated area or room should remain unoccupied, the proposal states that there be a 24-hour waiting period. This suggests to parents, students, and staff that there is a sensitivity to chemical compounds when in fact, none may exist. And if sensitivity to chemical compounds does exist, should the parents of the nation's five million private school students also receive the same information as parents of public school students? Should not all parents receive the information when any grounds on which little leagues, soccer leagues, and other sports and recreational activities occur for hours each week? Similarly the question can be asked whether providers of off-site services for public education

students such as those that would be funded by federal after-school programs should also be subject to these reporting requirements?

♦ **The Legislation Establishes Unrealistic Timeframes**

Other timetables established in the legislation are not realistic. Within a year of receiving a copy of the school pest management plan from the state agency, the local educational agency must develop and implement in each of its schools a school pest management plan that meets the standards and requirements set forth by the state plan and approved by the EPA. It would take a long time to develop plans with more than 100 different school divisions within the Commonwealth of Virginia. Additionally, the proposal would change the dynamics of how schools get their instructions since State Lead Agencies (SLAs) that are responsible for regulation of pesticide use in their states would be the communicator with local schools. Currently, State Departments of Education are the main link. Potentially, the amendment would lead to increased investigations on the part of SLAs, such as the one for which I work, with potential monetary civil penalties assessed against schools.

♦ **Chesterfield County Currently Has a School Pesticide Management Plan and Does Not Need Additional Federal Mandates**

Now that I have described the new administrative requirements, lack of funding, and possible liability issues that the new legislation would impose on localities, I would like to tell you what Chesterfield Public Schools are already doing with respect to pesticide use. Currently, Chesterfield Public Schools uses an integrated pest management approach that has been developed and recommended to local school systems in a cooperative effort by the Virginia Pesticide Control Board, Virginia Department of Agriculture and Consumer Services, the Virginia Department of Education, the Virginia Cooperative Extension Service and Virginia

Tech. Where feasible, we rely more on the use of baits and environmental controls; we do not apply pesticides when students or staff are in our buildings; we provide notice. In other words, we do that which is necessary to ensure the safety of children and adults and we do not need additional federal mandates to make us do so.

♦ **This Legislation Provides a One-Size-Fits-All Solution to an Issue That Should Merit Some Flexibility for Local School Districts**

Local education agencies are taking the appropriate steps, with the support and guidance of state agencies, to protect our children. The pesticide amendment that was added to the Senate Elementary and Secondary Education Act (ESEA) is counter to a reauthorization process that called for increased flexibility for local school districts. If in fact the science suggests that schools and facilities serving children need to do more in this area, formal dialogues including hearings like the one today, should occur to identify the problems and solutions that can remedy the problem in a sensible and cost efficient manner. Unfortunately, this provision, was developed without the benefit of formal hearings, and therefore provides a one-size-fits-all solution to an issue that should merit some flexibility for local school districts.

I appreciate the opportunity to testify and I am happy to answer any questions.